

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 04-10106JLT

ZHANNA CHIZHIK,
Administratrix of the Estate
of Grigory Chizhik,
Plaintiff

v.

SEA HUNT BOATS, INC.,
TROPICLAND MARINE
AND TACKLE, INC., and
GREGORY ZILBERMAN,
Defendants.

**DEFENDANT SEA HUNT BOATS, INC.'S MOTION FOR LEAVE
TO SERVE INTERROGATORIES ON PLAINTIFF**

Defendant Sea Hunt Boats, Inc. ("Sea Hunt Boats") hereby respectfully moves the Court to grant it leave to serve 5 interrogatories on the Plaintiff which, if answered by the Plaintiff, will enable the Defendant to determine the Plaintiff's theory of liability in this product liability matter. As grounds for this motion the Defendant states that neither the Complaint nor the Automatic Disclosure provided by the Plaintiff disclose the Plaintiff's theory of product defect to the Defendant, and absent disclosure of the Plaintiff's theory of product defect, the Defendants will be unfairly hindered in their defense preparation. Reason and fairness require that the Defendants be permitted to know the Plaintiff's theory of liability with sufficient clarity to reasonably prepare their defense to the Plaintiff's claim. Without knowledge of the Plaintiff's theory of liability and specification of the alleged product defect, the Defendants are left to guess at what faults the Plaintiff may allege and to needlessly spend considerable time and resources preparing defenses to claims of defect which may never be asserted. Moreover, the five (5) interrogatories requested in

this motion, appended hereto as "Exhibit A", are few in number and would not cause a substantial hardship to the Plaintiff to answer.

The present lawsuit alleges that Sea Hunt Boats, Inc. and others are liable for the death of the Plaintiff's decedent when a fishing boat in which he was a passenger allegedly capsized in Boston Harbor on May 25, 2003. The Plaintiff's decedent was a passenger in a Navigator 22 fishing boat allegedly manufactured by Sea Hunt Boats and owned by Defendant Gregory Zilberman. Defendant Tropicland Marine and Tackle was an intermediate seller of the Navigator 22. The Complaint alleges, in summary fashion, that "the Navigator 22 was and is defective and unreasonably dangerous in the following ways: it had a defective design, was defectively manufactured, Sea Hunt failed to warn purchasers, operators, and passengers of its risks, and failed in other respects that will be shown at trial." Complaint, Paragraphs 16, 21. Automatic disclosure made by the Plaintiff does not disclose the defects alleged in the Navigator 22's manufacture or design, the "respects" in which Sea Hunt failed, nor the "risks" as to which the Defendant allegedly gave no warning. Repeated efforts made by Sea Hunt's attorney to obtain disclosure of the alleged defects and risks that the Plaintiff alleges were present in the Navigator 22 have proven fruitless.

At the Scheduling Conference on May 4, 2004, Sea Hunt requested leave of the Court to serve written discovery requests on the Plaintiff, which request was denied by the Court. To the undersigned attorney's memory, he expressed concern to the Court that Sea Hunt needed written discovery to determine the Plaintiff's theory of liability/product defect, to which the Court responded that the Plaintiff's Automatic Disclosure should make the theory of liability plain. Although the Plaintiff has made Automatic Disclosure, the Plaintiff's theory of product defect remains virtually a mystery to Sea Hunt.

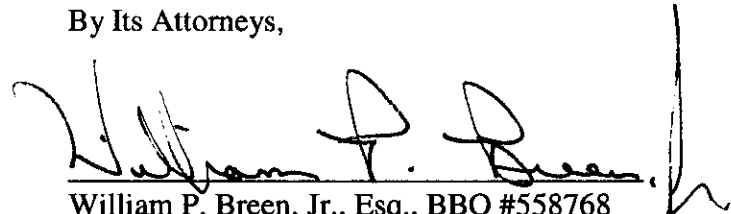
In order to take full and reasonable advantage of the opportunity to conduct fact witness depositions, and to prepare its defense, Sea Hunt must know what the Plaintiff alleges was defective in the subject vessel. As the Plaintiff has thus far failed or refused to state what was wrong with the subject vessel voluntarily or as part of mandatory disclosure, Sea Hunt requests leave to serve five attached interrogatories on the Plaintiff which seek specification of the information requested.

A memorandum of law in support of this motion is filed herewith.

WHEREFORE, Defendant Sea Hunt Boats, Inc. moves this Honorable Court to allow its Motion for Leave to Serve Interrogatories on Plaintiff.

The Defendant,

Sea Hunt Boats, Inc.
By Its Attorneys,

A handwritten signature in black ink, appearing to read "William P. Breen, Jr.", is written over a horizontal line.

William P. Breen, Jr., Esq., BBO #558768
Rebecca L. Andrews, Esq., BBO #644846
Murphy, Hesse, Toomey & Lehane, LLP
300 Crown Colony Drive, Suite 410
P.O. Box 9126
Quincy, MA 02269-9126

CERTIFICATION OF SERVICE

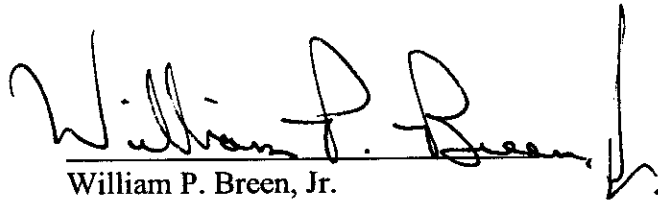
The undersigned attorney hereby certifies that on this 16th day of December, 2004, he served a copy of the foregoing document, via first class mail, upon the following:

David B. Kaplan, Esq.
The Kaplan/Bond Group
Boston Fish Pier
West Building, Suite 304
Boston, MA 02210

Lauren Motola-Davis, Esq.
Philip M. Hirshberg, Esq.
Morrison, Mahoney & Miller, LLP.
250 Summer Street
Boston, MA 02210

David W. McGough, Esq.
Marci Shyavitz, Esq.
Cornell & Golub
75 Federal Street
Boston, MA 02110

David C. Stadolnick, Esq.
Smith & Brink P.C.
122 Quincy Shore Drive
Quincy, MA 02171


William P. Breen, Jr.

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 04-10106JLT

ZHANNA CHIZHIK,
Administratrix of the Estate
of Grigory Chizhik,
Plaintiff

v.

SEA HUNT BOATS, INC.,
TROPICLAND MARINE
AND TACKLE, INC., and
GREGORY ZILBERMAN,
Defendants.

DEFENDANT'S INTERROGATORIES TO PLAINTIFF

Defendant Sea Hunt Boats, Inc. ("Sea Hunt Boats") hereby requests that Plaintiff Zhanna Chizhik respond completely and in detail, under oath, to the following interrogatories in the manner required, and in the time allowed, by the Federal Rules of Civil Procedure:

1. Please identify specifically and in detail each and every product defect that you allege was present in the Navigator 22 on which your husband was a passenger on May 25, 2003 and which you further contend was a substantial factor in your husband's accident and injuries.
2. For each and every product defect identified in your answer to the preceding interrogatory, please state specifically and in detail all facts upon which you rely in asserting the existence of said product defect(s).
3. Please identify specifically and in detail all industry standards which you allege are applicable to the design and manufacture of the Navigator 22 involved in this incident and which you allege Defendant failed to follow.
4. If you claim that Defendant violated an express warranty, please state specifically and in detail any and all statements made by Defendant, the date of each statement, and by what mode (i.e., verbal, written, etc.) each statement was made and the manner in which each such express warranty was violated.

5. If you claim that Defendant failed to warn the decedent of any risks associated with the Navigator 22, please state specifically and in detail what risks it should have notified your husband of and how its failure to do so was a substantial factor in your husband's death.

The Defendant,

Sea Hunt Boats, Inc.
By Its Attorneys,

William P. Breen, Jr., Esq., BBO #558768
Rebecca L. Andrews, Esq., BBO #644846
Murphy, Hesse, Toomey & Lehane, LLP
300 Crown Colony Drive, Suite 410
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Quincy, MA 02269-9126

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SEA HUNT BOAT CO

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FILED
UNITED STATES DISTRICT COURT CLERKS OFFICE
FOR THE
DISTRICT OF MASSACHUSETTS
JAN 16 2004

COPY

U.S. DISTRICT COURT
DISTRICT OF MASS.

ZHANNA CHIZHIK,
Administratrix of the Estate
of Grigory Chizhik,
Plaintiff

v.

SEA HUNT, INC., TROPICLAND
MARINE AND TACKLE, INC., and
GREGORY ZILBERMAN,
Defendants

C.A. NO.:

04-10106JET

MAGISTRATE JUDGE *Diin*

COMPLAINT

INTRODUCTION

1. This is a wrongful death action for money damages arising out of a boating incident when a boat capsized, causing Grigory Chizhik, plaintiff's decedent, to suffer painful injuries and ultimately, expire.

JURISDICTION

2. Jurisdiction for this action is appropriate under 28 U.S.C. §1333 as an admiralty or maritime matter.

THE PARTIES

3. The plaintiff, Zhanna Chizhik, resides at 141 William Kelly Street, Stoughton, MA. She brings this action in her capacity as Administratrix of the Estate of her late husband, Grigory Chizhik ("Mr. Chizhik").

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4. Defendant Sea Hunt Boats, Inc. ("Sea Hunt") is a South Carolina corporation with a usual place of business at P.O. Box 1380, Lexington, South Carolina.
5. Defendant Tropicland Marine and Tackle ("Tropicland") is a Massachusetts corporation with a usual place of business at 100 Bridge Street, Rte. 109, Dedham, MA.
6. Defendant Gregory Zilberman ("Zilberman") is a Massachusetts resident who resides at 9 Dexter Street, Southington, MA.

FACTUAL ALLEGATIONS

7. Defendant Sea Hunt is engaged in the design and manufacture of boats, and did design, manufacture, and market for sale the boat referred to as the "Navigator 22," the boat involved in this incident.
8. Defendant Tropicland is engaged in selling boats and boat products and sold the boat Navigator 22 to Defendant Gregory Zilberman.
9. On May 25, 2003, Gregory Chizhik accompanied Defendant Gregory Zilberman and their mutual friend, Amir Lasbargi on Zilberman's Navigator 22, which departed from Weymouth, Massachusetts, to fish in Boston Harbor.
10. While fishing in Boston Harbor, the Navigator 22 capsized, throwing each of the occupants—Gregory Chizhik, Gregory Zilberman, and Amir Lasbargi—into the 50 degree water.
11. According to Coast Guard reports, on the day the incident occurred, the sea conditions were as follows: 3-foot seas and 10-knot winds from the North-Northeast.
12. None of the three occupants on the boat were wearing life jackets.
13. As a result of the capsizing, Mr. Chizhik sustained injuries, as a result of which he

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was caused to expire. On information and belief, Mr. Chizhik experienced conscious pain and suffering before expiring.

COUNT I

(Strict Liability -- Defendant Sea Hunt)

14. Paragraphs 1-13 are adopted by reference.
15. Defendant Sea Hunt put the Navigator 22 in the stream of commerce.
16. The Navigator 22 was and is defective and unreasonably dangerous in the following ways: it has a defective design, was defectively manufactured, Sea Hunt failed to warn purchasers, operators, and passengers of its risks, and failed in other respects that will be shown at trial.
17. The aforementioned defects in the Navigator 22 proximately caused the death of Mr. Gregory Chizhik.
18. Defendant Sea Hunt is strictly liable for the damage to Plaintiff caused by the Navigator 22.

REQUEST FOR RELIEF

1. Under Count I, that this court enter judgment in favor of the plaintiff against the defendant in the amount of her damages.
2. For such other and further relief as this court deems appropriate.

COUNT II

(Negligence -- Wrongful Death -- Defendant Sea Hunt)

19. Paragraphs 1-18 are adopted by reference.

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20. Defendant Sea Hunt had a duty of care in the design and manufacture of the Navigator 22, and also had a duty to warn purchasers, operators, and passengers of the Navigator 22's defects.

21. Sea Hunt breached that duty in numerous ways, including but not limited to the following: failing to produce a safe design for the Navigator 22's operation on coastal waters; failing to manufacture the Navigator 22 in a safe and proper way; failing to warn purchasers, operators, and passengers of the risks of operating the Navigator 22; and in other ways to be proved at trial.

22. As a direct and proximate result of Defendant Sea Hunt's negligence, Mr. Chizhik sustained serious personal injuries, suffered great pain of body and mind, and died.

REQUEST FOR RELIEF

1. Under Count II, that this court enter judgment in favor of the plaintiff against the defendant for wrongful death damages enumerated in Mass. Gen. Laws ch. 229, §2, including but not limited to compensation for the loss of reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel and advice of the decedent to the persons entitled to the damages recovered, the reasonable funeral and burial expenses of the decedent, and such other and further damages as may be allowed by law.

2. For such other and further relief as this court deems appropriate.

COUNT III

(Negligence—Conscious Pain and Suffering — Defendant Sea Hunt)

23. Paragraphs 1-22 are adopted by reference.

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24. This cause of action is brought pursuant to Mass. Gen. Laws ch. 229, §6 for personal injuries and conscious pain and suffering.

REQUEST FOR RELIEF

1. Under Count III, that this court enter judgment in favor of the plaintiff against the defendant for personal injuries and conscious pain and suffering damages enumerated in Mass. Gen. Laws ch. 229, §6.

2. For such other and further relief as this court deems appropriate.

COUNT IV

(Gross Negligence- Wrongful Death--Defendant Sea Hunt)

25. Paragraphs 1-24 are adopted by reference.

26. The death of plaintiff's decedent was proximately caused by the willful, wanton or reckless conduct of the defendant, or by the gross negligence of the defendant.

REQUEST FOR RELIEF

1. Under Count IV that this court enter judgment in favor of the plaintiff and against the defendant for punitive damages pursuant to Mass. Gen. Laws ch. 229, §2 in an amount not less than five thousand dollars.

2. For such other and further relief as this court deems appropriate.

COUNT V

(Breach of Express Warranty--Defendant Sea Hunt)

27. Paragraphs 1-26 are adopted by reference.

28. Defendant Sea Hunt expressly warranted that the Navigator 22 was fit for use on coastal waters, and that it would provide quality, performance, and fishability in those waters.

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29. Defendant Sea Hunt breached that warranty by providing a boat that failed to perform on coastal waters and to withstand typical and reasonably foreseeable conditions on those waters.

30. As a direct and proximate result of Defendant Sea Hunt's breach of warranty, Mr. Chizhik sustained serious personal injuries, suffered great pain of body and mind, and died.

REQUEST FOR RELIEF

1. Under Count IV, that this court enter judgment in favor of the plaintiff against the defendant in the amount of her allowable damages.
2. For such other and further relief as this court deems appropriate.

COUNT VI

(Strict Liability—Defendant Tropicland Marine and Tackle)

31. Paragraphs 1-30 are adopted by reference.
32. Defendant Tropicland was in the chain of distribution, and sold and distributed the Navigator 22.
33. The Navigator 22 was and is a defective and unreasonably dangerous craft, for the reasons enumerated in Count I of this Complaint.
34. The aforementioned defects in the Navigator 22 proximately caused the death of Mr. Grigory Chizhik.
35. Defendant Tropicland is strictly liable for the damage to Plaintiff caused by the Navigator 22.

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REQUEST FOR RELIEF

1. Under Count VI, that this court enter judgment in favor of the plaintiff against the defendant in the amount of her damages.
2. For such other and further relief as this court deems appropriate.

COUNT VII

(Negligence - Wrongful Death - Defendant Tropicland Marine and Tackle)

36. Paragraphs 1-35 are adopted by reference.
37. Defendant Tropicland had a duty of care in the distribution and sale of the Navigator 22.
38. Tropicland breached that duty in numerous ways, including but not limited to the following: failing to warn purchasers, operators and passengers of the risks of operating the Navigator 22; and in other ways to be proved at trial.
39. As a direct and proximate result of Defendant Tropicland's negligence, Mr. Chizhik sustained serious personal injuries, suffered great pain of body and mind, and died.

REQUEST FOR RELIEF

1. Under Count VII, that this court enter judgment in favor of the plaintiff against the defendant for wrongful death damages enumerated in Mass. Gen. Laws ch. 229, §2, including but not limited to compensation for the loss of reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel and advice of the decedent to the persons entitled to the damages recovered, the reasonable funeral and burial expenses of the decedent; and such other and further damages as may be allowed by law.

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2. For such other and further relief as this court deems appropriate.

COUNT VIII

(Negligence—Conscious Pain and Suffering—Defendant Tropicland)

40. Paragraphs 1-39 are adopted by reference.
41. This cause of action is brought pursuant to Mass. Gen. Laws ch. 229, §6 for personal injuries and conscious pain and suffering.

REQUEST FOR RELIEF

1. Under Count VIII, that this court enter judgment in favor of the plaintiff against the defendant for personal injuries and conscious pain and suffering damages enumerated in Mass. Gen. Laws ch. 229, §6.
2. For such other and further relief as this court deems appropriate.

COUNT IX

(Gross Negligence—Wrongful Death—Defendant Tropicland)

42. Paragraphs 1-41 are adopted by reference.
43. The death of plaintiff's decedent was proximately caused by the willful, wanton or reckless conduct of the defendant, or by the gross negligence of the defendant.

REQUEST FOR RELIEF

1. Under Count IX that this court enter judgment in favor of the plaintiff and against the defendant for punitive damages pursuant to Mass. Gen. Laws ch. 229, §2 in an amount not less than five thousand dollars.
2. For such other and further relief as this court deems appropriate.

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COUNT X

(Negligence - Wrongful Death - Defendant Zilberman)

44. Paragraphs 1-43 are adopted by reference.
45. Defendant Zilberman had a duty to use due care in the performance of his duties as owner and captain of his vessel, the Navigator 22.
46. Zilberman breached his duties in numerous ways, including but not limited to the following: taking the craft in dangerous waters; failing to maintain order and correct positioning of guests aboard the craft; failing to provide a lookout for oncoming danger; failing to observe wave and water conditions; failing to take corrective action when a dangerous condition arose; failing to arrange for the use of life jackets on board; failing to exercise due care, including a rescue operation; and in other ways to be proved at trial.
47. As a direct and proximate result of Defendant Zilberman's negligence, Mr. Chizhik sustained serious personal injuries, suffered great pain of body and mind, and died.

REQUEST FOR RELIEF

1. Under Count X, that this court enter judgment in favor of the plaintiff against the defendant for wrongful death damages enumerated in Mass. Gen. Laws ch. 229, §2, including but not limited to compensation for the loss of reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel and advice of the decedent to the persons entitled to the damages recovered, the reasonable funeral and burial expenses of the decedent; and such other and further damages as may be allowed by law.
2. For such other and further relief as this court deems appropriate.

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SEA HUNT BOAT CO

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COUNT XI

(Negligence—Conscious Pain and Suffering—Defendant Zilberman)

48. Paragraphs 1-47 are adopted by reference.
49. This cause of action is brought pursuant to Mass. Gen. Laws ch. 229, §6 for personal injuries and conscious pain and suffering.

REQUEST FOR RELIEF

1. Under Count XI, that this court enter judgment in favor of the plaintiff against the defendant for personal injuries and conscious pain and suffering damages enumerated in Mass. Gen. Laws ch. 229, §6.
2. For such other and further relief as this court deems appropriate.

COUNT XII

(Gross Negligence—Wrongful Death—Defendant Zilberman)

50. Paragraphs 1-49 are adopted by reference.
51. The death of plaintiff's decedent was proximately caused by the willful, wanton or reckless conduct of the defendant, or by the gross negligence of the defendant.

REQUEST FOR RELIEF

1. Under Count XII that this court enter judgment in favor of the plaintiff and against the defendant for punitive damages pursuant to Mass. Gen. Laws ch. 229, §2 in an amount not less than five thousand dollars.
2. For such other and further relief as this court deems appropriate.

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SEA HUNT BOAT CO

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PRAYER FOR RELIEF

WHEREFORE Plaintiff asks that this court:

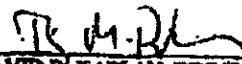
- 1) Enter judgment in favor of the Plaintiff on each and every count of the Complaint;
- 2) Award damages as appropriate, including but not limited to all damages requested in each and every count in the Complaint, and other damages to which the Plaintiff is entitled by law; and
- 3) Order such other and further relief as this Court deems appropriate.

THE PLAINTIFF REQUESTS TRIAL BY JURY ON ALL COUNTS

Respectfully submitted,

ZHANNA CHIZHIK,

By her attorneys,


DAVID E. KAPLAN, BBO#258540
TIMOTHY M. BAROUCH, BBO#644044
THE KAPLAN/BOND GROUP
BOSTON FISH PIER
WEST BUILDING, SUITE 304
BOSTON, MA 02210
(617) 261-0080

January 15, 2004

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

ZHANNA CHIZHIK
V
SEA HUNT, INC., ET AL

CIVIL ACTION No. 04-10106-JLT

DISCOVERY ORDER

TAURO, J.:

On or before, April 16, 04 the parties shall have exchanged and reviewed (1) all documents in accordance with Local Rule 26.2(A), and (2) sworn statements in accordance with Local Rule 26.1(B), and (3) a list of persons they wish to depose, thereby being in a position to knowledgeably prepare for the court's consideration at the scheduling conference.

In addition, the parties shall, without awaiting a discovery request, provide to other parties:

(A) the name and, if known, the address and telephone number of each individual likely to have discoverable information relevant to disputed facts alleged with particularity in the pleadings, identifying the subjects of the information and

(B) a copy of, or a description by category and location of, all documents, data compilations, and tangible things in the possession, custody, or control of the party that are relevant to disputed facts alleged with particularity in the pleadings.

No additional discovery shall take place without further order of the court.

Counsel shall notify the court in writing, no less than (5) days prior to the scheduled conference, of pending motions. Any motion not brought to the court's attention (5) days prior to the scheduled conference will be deemed denied as moot.

The court does not accept any letters requesting decision or action. Any such request must be in the form of a motion. Letters submitted for information purposes only must be addressed to Zita Lovett, Deputy Clerk.

IT IS SO ORDERED.

3/28/04

By the Court,
/s/ Zal
Zita Lovett, DEPUTY CLERK

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF MASSACHUSETTS

ZHANNA CHIZHIK,
Administratrix of the Estate
of Grigory Chizhik,
Plaintiff

C.A. NO.: 04-10106-JLT

v.

SEA HUNT, INC., TROPICLAND
MARINE AND TACKLE, INC., and
GREGORY ZILBERMAN,
Defendants

PLAINTIFF ZHANNA CHIZHIK'S AUTOMATIC DISCLOSURE

Pursuant to Federal Rule of Civil Procedure 26(a), the plaintiff, Zhanna Chizhik

("Ms. Chizhik") makes the following disclosures:

A. The name, and, if known, the address and telephone number of each individual likely to have discoverable information that Ms. Chizhik may use to support her claims or defenses, unless solely for impeachment, identifying the subjects of the information:

1. Amir Lashgari
current address unknown
(Believed to be aboard the boat when it capsized)
2. Gregory Zilberman
9 Dexter Street, Stoughton, MA
(Believed to be the owner and captain of the boat; aboard the boat when it capsized)
3. Zhanna Chizhik
(the plaintiff administratrix of the estate of the deceased, Grigory Chizhik)

5. United States Coast Guard personnel

6. Eric McDonald

(current address unknown)

(came upon boat after incident)

Plaintiff reserves the right to include all witnesses named by any one of the defendants in this matter. Plaintiff also reserves the right to supplement this list as discovery progresses.

7. Representatives from defendants Sea Hunt and Tropicland Marine and Tackle

B. A copy of, or a description by category and location of, all documents, data compilations, and tangible things that are in the possession, custody, or control of the party and that the disclosing party may use to support its claims or defenses, unless solely for impeachment:

1. Copy of the Coast Guard search and rescue documents arising out of this incident.

Plaintiff reserves the right to include all documents named by any one of the defendants in this matter. Plaintiff also reserves the right to supplement this list as discovery progresses.

C. A computation of any category of damages claimed by the disclosing party, making available for inspection and copying as under Rule 34 the documents or other evidentiary material, not privileged or protected from disclosure, on which such computation is based, including materials bearing on the nature and extent of injuries suffered:

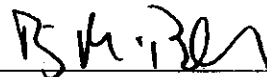
Plaintiffs seek recovery for wrongful death damages, including but not limited to lost wages, loss of consortium, other pecuniary loss, conscious pain and suffering, and other damages. Plaintiff reserves the right to supplement this disclosure concerning this matter as discovery progresses.

D. Any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in the action or to indemnify or reimburse for payments made to satisfy the judgment:

None in the plaintiff's possession, custody, or control.

ZHANNA CHIZHIK,

By her attorneys,



DAVID B. KAPLAN, BBO#258540
TIMOTHY M. BAROUCH, BBO#644044
THE KAPLAN/BOND GROUP
BOSTON FISH PIER
WEST BUILDING, SUITE 304
BOSTON, MA 02210
(617) 261-0080

April 16, 2004

Commonwealth of Massachusetts
Dept Fisheries, Wildlife & Env Law Enforcement
DIVISION OF LAW ENFORCEMENT

BOAT REGISTRATION CLASS II - 16 TO 26 FEET

MS 9367 AF Customer Id: [REDACTED] EXPIRES: 05-05-2005

GREGORY ZILBERMAN
9 DEXTER ST.
STOUGHTON, MA 02072

DOB: [REDACTED]

Signature: _____

1. Report within 15 days changes of ownership, address, destruction, transfer, theft or abandonment of vessel. Report within 2 days the above for recreational vehicles to Law Enforcement, 251 Causeway Street, Boston, MA 02114.
2. Operator is required to:
 - A. Always carry certificate of number on vessel.
 - B. Stop and render aid or assistance if involved in or witness to an accident (when safe to do so).
 - C. Report every accident involving death within 48 hours and every accident involving injury to person(s) or property damage over \$500 or property damage over \$50 for recreational vehicles within 5 days to this division. Ph: 1 800-632-8075

Registration Offices

40 Southbridge Street
3rd Floor
Worcester, MA 01608
508-753-0603

218 S. Main Street
Fall River, MA 02721
508-679-8287

165 Liberty Street Springfield, MA 01103 413-733-1642
251 Causeway Street Boston, MA 02114 617-626-1610
1019 Iyanough Rd (Rt 132) Hyannis, MA 02601 508-771-8382

**BOAT REGISTRATION CLASS II -
16 TO 26 FEET**

MS 9367 AF

2003 SEA HUNT 21'6"
SXSNO176C303
PLS WHT/WHT
FIBERGLASS

OPEN BOAT
STOUGHTON
NONE

2003 JOHNSON 26023291 140 OUTBOARD GAS

DIRECTOR: _____

Richard A. Murray

CUSTOMER RECEIPT

This is your receipt. Retain and store in a safe place.

GREGORY ZILBERMAN
9 DEXTER ST.
STOUGHTON, MA 02072

FTN: 002324035
ISSUED: 06-20-2003
PAY TYPE: NONE

DLE-BOSTON, BOSTON

BOAT REGISTRATION CLASS II - 16 TO 26 FEET

\$.00

FEES PAID THIS PAGE

\$.00

Note: The fees listed above apply to this page only. If you purchased additional items, they will appear on supplemental pages with fees listed on those pages.

**Department of Fisheries, Wildlife &
Environmental Law Enforcement**

David M. Peters, Commissioner

Executive Office of Environmental Affairs
Ellen Roy Herzfelder, Secretary

Commonwealth of Massachusetts
Mitt Romney, Governor
Kerry Healey, Lt. Governor

GREGORY ZILBERMAN
9 DEXTER STREET
STOUGHTON, MA 02072

PER YOUR REQUEST of 6/20/03

U.S. Department of
Homeland Security

United States
Coast Guard



Commander
First Coast Guard District

408 Atlantic Ave
Boston, MA 02110
Staff Symbol: (csr)
Phone: (617) 223-8460
Fax: (617) 223-8471
Email: ANAGLE@D1.USCG.MIL

5720
June 12, 2003

The Kaplan/Bond Group
Attn: Mr. David B. Kaplan.
Boston Fish Pier, West Building, Suite 304
Boston, Ma. 02210

Dear Mr. Kaplan:

This responds to your Freedom of Information Act request. You requested information from the U.S. Coast Guard, regarding the search and rescue case file for a 20-foot recreational boating accident that took place in Boston Harbor on May 25, 2003.

As you requested, contained herein are copies of U.S. Coast Guard documents from the Search and Rescue file. Personal information is exempt from release under 5 U.S.C 552 (b)(6), and has been redacted from these documents.

If you have any further questions, please contact Petty Officer Austin Nagle of my office. He can be reached at (617) 223-8460.

Sincerely,

A handwritten signature in black ink, appearing to read "CJH", followed by a large, loopy flourish.

C. J. HARWOOD
Lieutenant Commander, U. S. Coast Guard
Assistant Chief, Office of Search and Rescue
By direction of the District Commander

Enclosure: (1) SAR Case file

U. S. DEPARTMENT OF HOMELAND SECURITY

U. S. Coast Guard

FOR IMMEDIATE RELEASE

Release No. 042-03

Contact: Public Affairs

617-921-6358

May 25, 2003

8 p.m.

Victim of boating accident in Boston Harbor identified

BOSTON – The names of the three men involved in today's boating accident near Shag Rock in Boston Harbor have been released.

Dead is Gregory Schizhik, 47. His hometown is not available.

Rescued are the owner of the boat, Gregory Zilberman, 47, and passenger Amire Lashgari, 41. Their hometowns are not available. They were treated at South Shore Hospital. Their conditions are unknown.

The owner of the Good Samaritan vessel that rescued Zilberman and Lashgari is Eric McDonald. His hometown is not available.

Zilberman and Lashgari were rescued by McDonald and four other passengers after the two men spent nearly two hours in the 50 degree water near Shag Rock. Schizhik was found in the water nearby and later pronounced dead at Boston Medical Center.

None of the three men were wearing life jackets.

The trio was fishing from Zilberman's 20-foot recreational boat when they were broadsided by a wave, then flipped over by a second wave.

The Coast Guard received a call from the Massachusetts State Police at about 2:55 p.m. that an unidentified Good Samaritan had come upon one person, in the water, and two others clinging to the rocks on Shag Rock.

The sea conditions at the time of the accident were 3-foot seas and 10-knot winds out of the northeast.

###

ENCLOSURE ()

U. S. DEPARTMENT OF HOMELAND SECURITY

U. S. Coast Guard

FOR IMMEDIATE RELEASE

Release No. 041-03

Contact: Public Affairs

617-921-6358

May 25, 2003

4:30 p.m.

One dead after boat capsizes near Boston Light

IVD Brewster Island

BOSTON – One person is dead and two others were pulled from Shag Rock, a small island about two miles north of Hull, Mass., after their boat capsized shortly before 3 p.m. today.

The Coast Guard received a call from the Massachusetts State Police at about 2:55 p.m. that an unidentified Good Samaritan had come upon one person, in the water, and two others clinging to the rocks on Shag Rock.

Simultaneously, Coast Guard Station Point Allerton heard a Mayday call from boaters in that same area, and immediately launched two rescue boats. As they approached the area, they were met by a Good Samaritan, who had rescued the two people found on Shag Rock.

The two survivors were transferred to one of the Coast Guard rescue boats and taken back to Station Point Allerton. They were met by emergency medical services and taken to South Shore Hospital.

The second Coast Guard boat was led back to the scene by the Good Samaritan and recovered the third victim. The Coast Guard transferred the victim to the Boston Harbormaster, and was later pronounced dead by emergency medical service personnel.

Identification of the three people will be made available, pending notification of next of kin. Coast Guard crews are attempting to relocate the capsized boat and determine how the accident happened.

###

CC1/D1

UNCLAS

P 260009Z MAY 03 ZUI ASN-A01146000002

FM COMCOGARDGRU BOSTON MA

TO CCGDONE BOSTON MA//OSR/CC//

INFO COGARD STA POINT ALLERTON MA

COGARD AIRSTA CAPE COD MA

BT

UNCLAS //N16130//

SUBJ: SITREP ONE AND FINAL - CAPSIZED BOAT WITH 03 PIW - OUTER
BOSTON HARBOR - 42-20.3N 070-53.0W

PERIOD: 251452Q MAY 03 TO 251710Q MAY 03.

1. SITUATION:

A. CASE CLOSED

B. NOTIFICATION: 251452Q MAY 03, VHF FM CH16 MR. ERIK MACDONALD.

C. NARRATIVE: RCVD CALL BOTH VHF AND CELL PHONE REPORTING A
CAPSIZED VSL WITH 03 PIW. CG41354, CG220529 AND CG6042
RESPONDED. GOOD SAM VSL RECOVERED 02 OF THE PIW AND
TRANSFERRED THEM TO CG41354. CG220529 RECOVERED THE 3RD PIW,
ADMINISTERED CPR AND TRANSFERRED THE VICTIM TO BOSTON EMS.

D. DESC: 22' SEA HUNT PLEASURE CRAFT. REG # MS9367AF

E. POB INFO: 03

O/O: GREGORY ZILBERMAN

PA: AMIR LASHGARI

DOB [REDACTED]

DOB [REDACTED]

PA: GREGORY CHIZHIK

DOB [REDACTED]

F. WX: WIND NNE 10 KTS, SEAS 2-3FT, VIS: 08NM, AT: 65, WT: 50F.

2. ACTION TAKEN:

A. 251452Q RCVD INITIAL CALL OVER CH 16, NEG RESPONSE TO CALL
BACKS. ASSUMED SMCB. 1453Q D1CC PATCHED CELL PHONE CALLER RPTNG POSITION TO
BE BETWEEN BOSTON AND GRAVES LIGHT, PHONE CALL CUT OFF.

C. 1454Q CG41354 U/W.

D. 1458Q ISSUED UMIB.

E. 1504Q REESTABLISHED COMMS WITH R/S.

F. 1508Q CG41354 O/S WITH GOOD SAM VSL.

G. 1511Q CG41354 HAS 02 SURVIVORS O/B ENRT STA POINT ALLERTON,
AND CONFIRM 01 PIW STILL MISSING.

H. 1521Q CG220529 O/S WITH CAPSIZED VSL.

I. 1523Q CG41354 M/S TRANSFERRING 2 VICTIMS TO EMS.

J. 1525Q CG220529 HAS LOCATED PIW.

K. 1526Q CG6042 AIRBORNE ETA 13 MINUTES.

L. 1528Q CG220529 HAS PIW ONBOARD.

M. 1530Q BOSTON PD VSL WITH EMT IS O/S WITH CG220529.

N. 1534Q ADVISED CG6042 TO STAND DOWN.

P 260009Z MAY 03 COMCOGARDGRU BOSTON MA

Page 1 of 2

UNCLAS

UNCLAS

- O. 1535Q CG220529 ENRT BPD MOORING TO MEET EMS.
- P. 1537Q CANCELED UMIB.
- Q. 1540Q 02 VICTIMS ENRT SOUTH SHORE MEDICAL CENTER.
- R. 1557Q CG220529 MOORED BPD MOORING.
- S. 1602Q VICTIM HAS BEEN TRANSFERRED TO BOSTON EMS.
- T. 1606Q CG220529 RTB.
- U. 1607Q CG41354 BACK OS/ WITH CAPSIZED VSL.
- V. 1629Q CG41354 ADVISES NO DEBRIS IN THE AREA, VSL IS HUNG ON A ROCK AND CURRENTLY NOT A HAZARD TO NAVIGATION.
- W. 1710Q BOSTON MEDICAL CENTER ADVISED GREGORY CHIZHIK WAS PRONOUNCED DEAD.
- 3. FUTURE PLANS AND RECOMMENDATIONS: NONE.
- 4. AMPLIFYING INFO:
 - A. CASE INFO: BOSTON MEDICAL CENTER MADE NOK NOTIFICATION. THE VESSEL REMAINS AGROUND ON A ROCK, NO DEBRIS OR POLLUTION OBSERVED.
 - B. RESULTS OF BOARDINGS: NONE
 - C. STATUS OF AIDS TO NAVIGATION IN AREA OF INCIDENT. N/A
 - D. POLLUTION. NONE.
 - E. MEDIA INTEREST. MODERATE.
- 5. CASE STATUS:
 - A. CASE: CLOSED.
 - B. SORTIE DATA:

STA POINT ALLERTON	02 SORTIE	1.5 HRS
AIRSTA CC	01 SORTIE	.5 HRS
 - C. UCN:

GROUP BOSTON (SMC)	116-03
STA POINT ALLERTON	110-03
AIRSTA CC	
SARMIS CASE NUMBER	118241

BT
NNNN

UNCLAS

INCIDENT CHRONOLOGICAL SHEET

USCG D1 Command Center

Page 1 of 2

Day/Month	CASE SUBJECT
25 Nov 03	CAPSIZE BOAT MULTIPLE PIW'S
Day of Week: M T W T H F S S	CONTROLLERS: LR SV RG PC JT MB CZ BL PC JF JT MG DP ES CW
1454	FT BOS/ S08- [REDACTED] - [REDACTED] xfer fm ST06 PD PERSON
	FT INV Gears LIGHT + BOSTON HBR. 1 PERSON DRO
	FT 2 people IN WATER TRYING TO GET UP ON
	FT Rocks CAPSIZE BOAT. 2 STA AT DIRECTION
	FT CIRCULTE. REAR HGD. RUNNING UMB B REAR WXP
1458	FT ASCC/ REF LOUANCHING ASAP.
1503	FT BOS/ O/S WXP WINDS N TO NE 10 KTS 8NM
	FT VLS 2000 FT CEILING. 2-3 FT SEAS. APPROX POSTT
	FT 42 24.5N 070 53.5W
1505	FT ASCC/ BRFD. GO SPINNING UP.
1515	FT BOS/ GOOD SON RECOVERED 2 PIW XFERRED TO STA
	FT AT DIRECTION BOAT. NOW ESCORTING SECOND STA BOAT
	FT OUT TO CAPSIZE BOAT WHERE BODY WAS, CONFIRMED
	FT TOWED OF THREE - SOUTH SHORE HOSP.
1524	FT DDD/ BRFD
1530	FT BOS/ REQUEST FROM EMS TO START CPR
	FT ON PERSON EVEN THOUGH 9/5 EMS
	FT REPORTED MBR DENO. POSSIBLE
	FT CHANGE COLD H2O WILL ALLOW FOR
	FT RESUSITATION. RGR. BOAT CREW CURRENTLY
	FT CONDUCTING CPR ON ROUTE SHORE
	FT UNITS.
1604	FT BOS/ Hal [REDACTED] / Lauri. Tempest / Nurse / [REDACTED] 4/0 male
	FT 20 minutes dead. Psychiatric Nurse conducting
	FT Next of kin notifications.
	FT
1705	FT BOS/ No life vests - broad sided by wave.
	FT Fishing Decayed 48 y/male. Other 41 c
	FT 48 y/o. - B/F on Hook (Chase) 1's
	FT mbrs. death. Rgr. talk to 2F Miller
	FT to see if CISM / Work wife required
	FT SEE ARC FOR BCF'ing

Notified cognizant SAR resource
(DATE/TIME) (IF APPLICABLE)

Unit: _____
Local File #: _____
System Case #: _____

Notified cognizant OCM/COTP
(DATE/TIME)

Unit: _____

1729 ~~Briefed~~
(DATE/TIME) Briefed cc (senior controller)
Note: _____

*paged - to read cell
- left msg*

1731 ~~Briefed~~
(DATE/TIME) Briefed duty m watch stander
Note: _____

*from
- left msg*

Brief up? (Y / N)

1741 ~~Briefed~~
(DATE/TIME) Briefed osr
Note: _____

Brief up? (Y / N)

1756 ~~Briefed~~
(DATE/TIME) Briefed o
Note: _____

Brief up? (Y / N)

1758 ~~Briefed~~
(DATE/TIME) Engage Salvage Engineering Response Team (SERT) (Y / N)
Note: The recommendation to engage the SERT should only be made after Duty M, CC, and the Mission Coordinator have concluded that it is applicable. The SERT can be contacted through G-OPF (FLAGPLOT.) The Casualty Information Sheet is available at: <http://www.uscg.mil/hq/msc/sertinfo.htm>

1757 ~~Briefed~~
(DATE/TIME) Briefed m
Note: _____

Brief up? (Y / N)

1804 ~~Briefed~~
(DATE/TIME) Briefed dcs
Note: _____

Brief up? (Y / N)

1804 ~~Briefed~~
(DATE/TIME) Briefed d ~~Brief all marine fatalities up to (d)~~
Note: _____

1814 ~~Briefed~~
(DATE/TIME) Briefed dl *
Note: _____

1814 ~~Briefed~~
(DATE/TIME) Briefed CAA/G-OPF *
Note: _____

1800 ~~Briefed~~
(DATE/TIME) Briefed dpa *
Note: _____

* when directed

(Note 1) Major or Significant Marine Casualties (including those involving recreational vessels).

Immediately upon receipt of information concerning a major or significant marine casualty, the OCM shall inform the District Commander (m), Area Commander, and Commandant (G-MOA) via Flag Plot through the Command Center by the most rapid means available (usually by telephone). Notification should be based on reliable information, and should not be delayed while filing reports that may be required. Essential information, including the names of the vessels involved, their Official Numbers, nationality, the location, known and possible deaths and serious injuries, the nature of the casualty. It is imperative that (G-MOA) be advised of the essential facts without delay, even though some information may be missing or of questionable accuracy. Initial notification should state the type of investigation to be conducted or contain a recommendation to convene a marine board, and should be confirmed by message or e-mail as soon as possible.

- The duty m watch stander will brief "up the chain" through the Command Center via a telephone patch
- The up-brief will be monitored and logged above by the cc Controller or Assistant Controller

MARINE CASUALTY OR ACCIDENT (4-03)**Amplifying Information**

Ref: (a) 46 CFR 4.03

(b) Marine Safety Manual, Vol. 5

Marine Casualty Or Accident. A marine casualty or accident shall mean any casualty or accident involving any vessel other than public vessels if such casualty or accident occurs upon the **navigable waters*** of the United States, its territories or possessions or any casualty or accident wherever such casualty or accident may occur involving any United States' vessel which is not a public vessel. The classifications of marine casualties are listed below.

***Navigable waters** of the United States, navigable waters, and territorial waters mean, except where Congress has designated them not to be navigable waters of the United States: (1) Territorial seas of the United States; (2) Internal waters of the United States that are subject to tidal influence; and (3) Internal waters of the United States not subject to tidal influence that: (i) Are or have been used, or are or have been susceptible for use, by themselves or in connection with other waters, as highways for substantial interstate or foreign commerce, notwithstanding natural or man-made obstructions that require portage, or (ii) A governmental or non-governmental body, having expertise in waterway improvement, determines to be capable of improvement at a reasonable cost (a favorable balance between cost and need) to provide, by themselves or in connection with other waters, highways for substantial interstate or foreign commerce. (In general, this applies to the territorial sea and contiguous zone, i.e. 12-mile limit.)

(1) **Major Marine Casualty.** This term includes marine casualties or **recreational boating accidents*** that meet the criteria contained in the joint Coast Guard (CG)/NTSB regulations (46 CFR 4.40); these require the Commandant to notify the NTSB of the casualty. These criteria, set forth in 46 CFR 4.40-5(d), state that a major marine casualty involves a vessel other than a public vessel (as defined in 46 CFR 4.03-40) and results in one of the following:

- (a) The loss of six or more lives;
- (b) The loss of a mechanically propelled vessel of 100 or more gross tons (GT);
- (c) Property damage initially estimated at \$500,000 or more;
- (d) "Serious threat" (as determined by the Commandant with concurrence by the NTSB chairperson) to life, property, or the marine environment by hazardous materials.

* **Recreational boating accidents** (see chapter 6 of reference (b): the owner or operator of a boat or vessel involved in a boating casualty or accident shall report the casualty or accident to a state reporting authority or, if no approved state reporting authority exists, to the Coast Guard. Reports of violation for failure to report a boating accident should be processed under 46 U.S.C. 6103, which provides for a maximum penalty of \$1,000 against the operator. This penalty procedure applies to operators of all vessels, not merely recreational craft. Public vessels are exempt.

(2) **Public/Nonpublic Vessel Casualty.** Under the CG/NTSB joint regulations, the Commandant must notify the NTSB of all casualties that involve a public and a nonpublic vessel and at least one fatality or \$75,000 in property damage. (See 46 CFR 4.40-10(b)(2).)

(3) **Serious Marine Incident.** This term includes the following events involving a vessel in commercial service:

- (a) Any marine casualty or accident as defined above that is required by **46 CFR 4.05-1*** to be reported to the Coast Guard and which results in any of the following:
 - (1) one or more deaths;
 - (2) an injury to a crewmember, passenger, or other person which requires professional medical treatment beyond first aid, and, in the case of a person employed on board a vessel in commercial service, which renders the individual unfit to perform routine vessel duties;
 - (3) damage to property, as defined in 46 CFR 4-05-1(a)(7), in excess of \$100,000;
 - (4) actual or constructive total loss of any vessel subject to inspection under 46 U.S.C. 3301; or
 - (5) actual or constructive total loss of any self-propelled, not subject to inspection under 46 U.S.C. 3301, of 100 gross tons or more.
- (b) A discharge of oil of 10,000 gallons or more into the navigable waters of the United States, as defined in 33 U.S.C. 1321, whether or not resulting from a marine casualty.
- (c) A discharge of a reportable quantity of a hazardous substance into the navigable waters of the United States, or a release of a reportable quantity of a hazardous substance into the environment of the United States, whether or not resulting from a marine casualty.

***46 CFR 4.05-1:** - unintended grounding or allision with bridge;

- intended grounding or strike of bridge that creates a hazard to navigation, the environment, or the safety of the vessel;
- loss of main propulsion, primary steering, or any associated component or control system that reduces the maneuverability of the vessel;
- an occurrence materially or adversely affecting the vessel's seaworthiness or fitness for service or route, including but not limited to fire, flooding, or failure or damage to fixed fire-extinguishing systems, lifesaving equipment, auxiliary power-generating equipment, or bilge-pumping systems;
- a loss of life;
- an injury that requires professional medical treatment (treatment beyond first aid) and, if the person is engaged or employed on board a vessel in commercial service, that renders the individual unfit to perform his or her routine duties; or
- an occurrence causing property damage in excess of \$25,000, this damage including the cost of labor and material to restore the property to its condition before the occurrence, but not including the cost of salvage, cleaning, gas-freeing, drydocking, or demurrage.

(4) Significant Marine Casualty. Significant marine casualties are those that involve important safety issues or cause substantial media interest. Significant marine casualties generally involve the following:

- (a) Multiple deaths or a single death caused by unusual circumstances;
- (b) Hazard to life, property, or the marine environment (e.g., sinking of a chlorine barge); or
- (c) The loss of any inspected vessel.

MARINE CASUALTY OR ACCIDENT (M-03) for (cc) use (Including Recreational Vessels involved in a Major Marine Casualty only)

Revised 08MAY2001

Rcvd report from **MSO Portland / Boston / Providence / LIS / ACTNY**
(DATE/TIME) Other: _____

(DESCRIBE)

VESSEL INFORMATION

Vessel #1	Vessel #2
Name: _____	Name: _____
Official #: _____	Official #: _____
Flag: _____	Flag: _____
Type of vessel: _____	Type of vessel: _____
Cargo/# of passengers: _____	Cargo/# of passengers: _____
Length: _____	Length: _____
Owner: _____	Owner: _____

Time/Location of Incident: Time: _____
Latitude/Longitude: _____ Geographic: _____

Type of incident:

- _____ Grounding - accidental / intentional (CIRCLE APPROPRIATE / NOTIFY OAN TO VERIFY NAV AIDS)
- _____ Fire / explosion (CIRCLE APPROPRIATE)
- _____ Collision / Allision (CIRCLE APPROPRIATE)
- _____ Heavy weather damage
- _____ Failure of gear and/or equipment and any other damage which might affect or impair the seaworthiness of the vessel
- _____ Damage by or to the vessel, its apparel, gear or cargo
- _____ Injury or loss of life of any person ~~Equal all marine fatalities up to (1)~~
- _____ Loss of life or injury to any person while diving from a commercial vessel and using underwater breathing apparatus
- _____ An oil or HAZMAT discharge; present / threat (CIRCLE APPROPRIATE)
(Use QRC M-01 or M-02) Describe, including amount: _____

Brief Description of Incident:

Classification of Incident: (SEE DEFINITIONS IN AMPLIFYING INFORMATION)

Major Marine Casualty _____ (Note 1)
Serious Marine Incident _____

Public/Non-Public Casualty _____
Significant Marine Casualty _____ (Note 1)

**If a Serious Marine Incident (SMI), 46 CFR 16.240 requires that the marine employer shall ensure that all persons directly involved are chemically tested for evidence of dangerous drugs or alcohol. Remind responding MSO personnel of this requirement.*

Daily Summary entry made _____
(initials)

Assistant: _____ Controller: _____

The information contained in this QRC may not be released to anyone outside of the United States Coast Guard. Anyone desiring this information must file a Freedom of Information Act (FOIA) request with Commandant (G-MP) (202) 267-1047/1463.

MARINE SAFETY NOTIFICATION LIST (M-03)
for (cc) use

Time: 1854 I : 25 MAY 03 UCN: Initials: BSC

- Initial SAR Check-sheet -

About the Distressed Vessel			
1. Position	BOSTON LT	Type of Position	Lat/Long 42.100N 070-53. Loran Lines Geographic Location
How determined?			
2. Number of Persons Aboard	ADULTS: 03	CHILDREN:	TOTAL:
Health or medical concerns?			
3. Nature of Distress (If PIW complete additional PIW box below)			
SP.S. MAYDAY			
4. Description of Vessel			
Including...	Length	Color	Type Name of Vessel
	22		SEA HUNT
			at anchor? Y N
6. Have all persons aboard the vessel put on Personal Flotation Devices.			

6. Determine Initial Severity/Emergency Phase (done by Watch Supervisor)	
<input type="checkbox"/> Distress <input checked="" type="checkbox"/> Dispatch Resources/Activate SAR Alarm. <input type="checkbox"/> Brief Group/District <input type="checkbox"/> Provide Emergency Instructions to Vessel in Distress. <input checked="" type="checkbox"/> Issue UMB. <input type="checkbox"/> Complete additional Check-Sheets as Situation Dictates. <input type="checkbox"/> Refer to Norfolk SARPLAN.	<input type="checkbox"/> Uncertainty <input type="checkbox"/> Alert Additional Information is needed. Complete one or more of the following: <input type="checkbox"/> Supplemental Check-sheet <input type="checkbox"/> Overdue Check-sheet <input type="checkbox"/> Flare Sighting Check-sheet <input type="checkbox"/> MEDEVAC/MEDICO Check-sheet <input type="checkbox"/> Grounding Check-sheet

About any People in the Water			
Number: 01	Confirmed? Y	Description: NM19	PPD? N
Time: 1854			Exp suit? N Light? N

About the Reporting Source	
Name of Reporting Source	
Name of Reporting Source Vessel	
Call back number (with area code)	Is this a cell phone number?
Address of Reporting Source	

About the On Scene Weather			
Wind	Seas	Swells	Visibility

1858Z STA P/A RESPOND TO RADIO CALL ASSUMES CASE
 1908Z #354Z ONSCENE PICKED UP TWO PERSON
 1910Z #0529Z ONSCENE

NARRATIVE/SUMMARY

MAY DAY S.O.S. BACKSIDE OF BOSTON LIGHT
LOST COMMS

0210 / 911 CALL CALL CAPTAIN VESSEL 2 PEOPLE
ON THE ROCKS 1 OF DECEASED CALL CALL VESSEL
DEAD 508 ~~508~~ ~~508~~

UNITS

R/S HAS 2 SURVIVORS 2/13 FLEET BOAT
LIGHT

41354 9/S WITH VSC WITH SURVIVORS B
SURVIVOR 018 354 FLEET PA 220529 9/S BROWN
ESCALATED TO LOCATION OF CAPTURED VSL

354 ADVISES SURVIVORS STATE POSITION OF
CAPTURED VESSEL IS BETWEEN BOSTON LIGHT AND
SHAG ROCK.

220529 9/S W/ CAPTURED VESSEL IN BOSTON 42-20.3N 070-53.0W

329 LOCATED 300 P.M.

6042 ABN ETA 13 MINUTES

220529 HAS RECOVERED BODIES

BOSTON FMS 018 BPD PORT PRONOUNCED BROWN AS

DISCREPANCY

ADV 6042 RTB

529 E/A BPD BODIES W/ BODY

BPD AOPS

GROUP BOSTON CASE LOG/CHRONO SHEET

NARRATIVE/SUMMARY

Boston EMS SURVIVOR ARRIVES TO GUNFIRE 4/04
DUE TO HYPOTHERMIA EFFECT
LOSS EYES.
CR VMA2B

UPDATER 19 CR

529 ^{Amelia} TRANSPORTED VICTIM TO BOSTON EMS

VICTIM TAKEN TO BOSTON MEDICAL CENTER

BOSTON MEDICAL CENTER ADVISES VICTIM PRONOUNCED
DEAD.

DEPARTMENT OF TRANSPORTATION



COMPANIED VIL
COAST GUARD

03 P. U. W.

[REDACTED]

SAR INCIDENT REPORT FOLDER

UNIT CASE NUMBER	MULTI-UNIT CASE NUMBER	DAY OPENED	MONTH YEAR	DAY CLOSED	MONTH YEAR	NAME OF DISTRESSED UNIT
		25	MAY 03	25	MAY 03	

9AR INCIDENT SUMMARY

(001) DOB	(002) DATE	(003) Unit Case No.	(004) Unit Case No.	(005) Unit Case No.	(006) Unit Case No.	(007) Unit Case No.	(008) Unit Case No.	(009) Unit Case No.	(010) Unit Case No.		
0811	31011514	110-03									
CASE DATA SECTION											
(001) Time From Occurrence		(002) Initial Severity		(003) Date/Time of Location							
UNKNOWN		DISTRESS		1500							
(004) Means of Notification		(005) Actual Severity		(006) Lives Lost		(007) BEFORE		(008) AFTER			
16		SEVERE									
(009) Nature of Incident		(010) Cause of Incident		(011) Lives Saved		(012) Parents otherwise Assisted					
CAPSIZED VSL 03 P.L.W.		CAPSIZED VSL		02		03					
(013) Observed Distance		(014) Owner		(015) Parents otherwise Assisted		(016) Parents otherwise Assisted					
2 NM		PRIVATE				03					
(017) Latitude		(018) Usage		(019) Value of Property Lost		(020) Value of Property Lost					
✓ 42-20.3		PLEASURE				1540 ✓					
(021) Longitude		(022) Propulsion		(023) Value / 100		(024) Value / 100		(025) Value / 100			
✓ 070-53-0		POWER									
(026) Method of Locating		(027) Length		(028) Value / 100		(029) Value / 100		(030) Value / 100			
✓ POSITION KNOWN		18									
SORTIE SUMMARY											
SORTIE	Date / Time Underway	Distance To Search or Search Area	Time / Time On Search	Date / Time Rescued / Rescued Alongside	Total Time On Search	Total Time On Sortie	Sea State (feet)	Wind (knots)	Visibility	ASSISTANCE RENDERED BY CG (C 15)	
										Personnel	Property
1	✓ 1454	2NM	3	1500		2.0	4-6				
2	✓ 1505	2NM	1	1510		1.3	4-6				
3											
4											
5											
6											
7											
REMARKS											
Name of Assisted Unit			Registration No. (optional)			Name/Address of Owner/Operator					
MR. ZILBERMAN Gregory (Survivor) Owner			AMIRE LASHGARI (Survivor)			CHIRHIK Grigory (Deceased)					

(A) CH MESSAGES, SITREPS, ETC., HERE)

INCIDENT FORM

DATE/TIME NOTIFIED: 1452 25 MAY 03

REPORTED BY: CHNL 16 ERIC MACDONALD

PHONE: 508- [REDACTED]

✓ ADDRESS: [REDACTED]

NATURE OF INCIDENT: CAPSIZED VSL

POSITION: 42-20.3
LATITUDE070-53.0
LONGITUDE

DATE/TIME INCIDENT OCCURRED: UNKNOWN

METHOD OF NOTIFICATION: 16

DESCRIPTION OF UNIT REQUIRING ASSISTANCE:

VESSEL

NAME: [REDACTED]

REGIS. NO.: [REDACTED]

LENGTH: 15' - 20'

USAGE: PLEASURE

POB: 03

PERSONNEL

PATIENT'S
NAME: [REDACTED]

* AGE: [REDACTED]

* AILMENT:

VESSEL

* NAME: [REDACTED]

* NATIONALITY: [REDACTED]

TYPE ASSISTANCE REQUESTED RECOVER/TRANSPORT TO HOSPITAL

NAME	AGE	SEX	ADDRESS
(OWNER) Gregory Zilberman		M	[REDACTED]
(OPERATOR)			

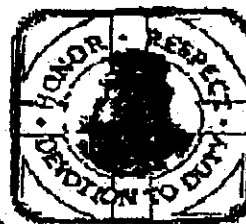
NAME OF PERSON

COMPLETING INCIDENT FORM: AOK BARRETT / MK2 COLE

MK3 HASH

[illegible]

110-03



U.S. Coast Guard Station Pt. Allerton

03 PERSON IN THE WATER

PROCEDURES		PIW INFORMATION																									
A. WARNINGS 1. Notify the INITIAL SURVIVAL 2. Fill out the PIW Checklist 3. Read the PIW Checklist 4. Assume or designate SMC		What were the circumstances? <u>CAPSIZE USL</u> Is there any question that it was a person in the water? Describe what was sighted. PIW name: <u>Chizhik Grigory</u> Age: <u> </u> Sex: <u>(M)</u> F Weight: <u> </u> PIW health: <u>UNCONCIOUS</u> Nationality: <u> </u> Determine water temperature: <u>52°</u>																									
B. INITIAL ACTION 1. Evaluate emergency phase 2. Issue EPIRB 3. <input checked="" type="checkbox"/> Deploy quick release SRU (or SOLAS) 4. Deploy life preserver 5. Plan for recovery operations 6. Formulate search plan 7. Find SRU or deploy a DMB 8. Deploy additional SRUs 9. Establish communications w/ family/DON 10. Develop future searches 11. Alert DALL's for next search 12. Have local authorities on hand 13. Obtain report of table in operation 14. Analyze all possible scenarios 15. If deceased, arrange recovery and turn body over to local authorities. 16. Arrange for notification of next of kin by paragraph 100. 17. If there is any doubt, ensure that first aid and revival attempts continue until delivery to the nearest medical facility.		VESSEL/EQUIPMENT <table border="1"> <tr> <td><input type="checkbox"/> Document/Official #</td> <td>Homeport:</td> </tr> <tr> <td><input type="checkbox"/> State Reg #</td> <td>Flag:</td> </tr> <tr> <td>Communications Equipment: <input checked="" type="checkbox"/> VHF-FM <input type="checkbox"/> HF <input type="checkbox"/> Other: <u> </u> <input checked="" type="checkbox"/> Cellular #: <u>911</u> Frequencies: Usage:</td> <td>Navigation Equipment: <input type="checkbox"/> LORAN <input type="checkbox"/> GPS <input type="checkbox"/> Radar <input type="checkbox"/> Fathometer <input type="checkbox"/> Other:</td> </tr> <tr> <td>Prominent Features: Hull Material: Cause of Incident:</td> <td>Survival Equipment: <input type="checkbox"/> EPIRB Class/Type: <input type="checkbox"/> VDS/Flares <input type="checkbox"/> Flashlight <input type="checkbox"/> Raft/Lifeboat <input type="checkbox"/> Dinghy/Skiff <input type="checkbox"/> Food/Water <input type="checkbox"/> Foul Wx Gear</td> </tr> </table>		<input type="checkbox"/> Document/Official #	Homeport:	<input type="checkbox"/> State Reg #	Flag:	Communications Equipment: <input checked="" type="checkbox"/> VHF-FM <input type="checkbox"/> HF <input type="checkbox"/> Other: <u> </u> <input checked="" type="checkbox"/> Cellular #: <u>911</u> Frequencies: Usage:	Navigation Equipment: <input type="checkbox"/> LORAN <input type="checkbox"/> GPS <input type="checkbox"/> Radar <input type="checkbox"/> Fathometer <input type="checkbox"/> Other:	Prominent Features: Hull Material: Cause of Incident:	Survival Equipment: <input type="checkbox"/> EPIRB Class/Type: <input type="checkbox"/> VDS/Flares <input type="checkbox"/> Flashlight <input type="checkbox"/> Raft/Lifeboat <input type="checkbox"/> Dinghy/Skiff <input type="checkbox"/> Food/Water <input type="checkbox"/> Foul Wx Gear																
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		PEOPLE <table border="1"> <tr> <td><input checked="" type="checkbox"/> Owner <input type="checkbox"/> Operator <input type="checkbox"/> POB</td> <td><input type="checkbox"/> Owner <input type="checkbox"/> Operator <input type="checkbox"/> POB</td> </tr> <tr> <td>Name: <u>Mr. Zilberman</u></td> <td>Name: <u>Admiral (1st Lt.)</u></td> </tr> <tr> <td>Address: <u> </u></td> <td>Address: <u> </u></td> </tr> <tr> <td>Phone: <u> </u></td> <td>Phone: <u> </u></td> </tr> <tr> <td>Age: <u>DOB: <u> </u></u></td> <td>Age: <u>DOB: <u> </u></u></td> </tr> <tr> <td>Male / Female</td> <td>Male / Female</td> </tr> <tr> <td><input type="checkbox"/> Owner <input type="checkbox"/> Operator <input type="checkbox"/> POB</td> <td><input type="checkbox"/> Owner <input type="checkbox"/> Operator <input type="checkbox"/> POB</td> </tr> <tr> <td>Name: <u>CHIZHIK Grigory</u></td> <td>Name: <u> </u></td> </tr> <tr> <td>Address: <u> </u></td> <td>Address: <u> </u></td> </tr> <tr> <td>Phone: <u> </u></td> <td>Phone: <u> </u></td> </tr> <tr> <td>Age: <u>DOB: <u> </u></u></td> <td>Age: <u>DOB: <u> </u></u></td> </tr> <tr> <td>Male / Female</td> <td>Male / Female</td> </tr> </table>		<input checked="" type="checkbox"/> Owner <input type="checkbox"/> Operator <input type="checkbox"/> POB	<input type="checkbox"/> Owner <input type="checkbox"/> Operator <input type="checkbox"/> POB	Name: <u>Mr. Zilberman</u>	Name: <u>Admiral (1st Lt.)</u>	Address: <u> </u>	Address: <u> </u>	Phone: <u> </u>	Phone: <u> </u>	Age: <u>DOB: <u> </u></u>	Age: <u>DOB: <u> </u></u>	Male / Female	Male / Female	<input type="checkbox"/> Owner <input type="checkbox"/> Operator <input type="checkbox"/> POB	<input type="checkbox"/> Owner <input type="checkbox"/> Operator <input type="checkbox"/> POB	Name: <u>CHIZHIK Grigory</u>	Name: <u> </u>	Address: <u> </u>	Address: <u> </u>	Phone: <u> </u>	Phone: <u> </u>	Age: <u>DOB: <u> </u></u>	Age: <u>DOB: <u> </u></u>	Male / Female	Male / Female
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Male / Female	Male / Female																										

1452 SPREADER "MAYDAY" ON EMBL BEGINNING RETURN
LIGHT 16

1453 TRIED CALLING - NO RESPONSE 16

1454 CG 41354 U/W, E/R BIN LT AREA 16

1455 GRP TRIED CALLING - NO RESPONSE 16

1456 MARINE 10 E/R 16

1458 JESSIE E/R 16

1505 CG 220529 U/W

1508 CG 41354 O/S WITH VSL THAT HAS 02 P.I.W. O/S
HIS VSL 81

1510 GDD CALLED, HAVE 41354 TRANSPORT THOSE
02 P.O.B. TO STATION P.A. HAVE CG 220529
GO WITH THAT VSL TO CAPSIZED VSL. 4/L

1512 CG 41354 E/R STA P.A. WITH 02 VICTIMS 81

1513 HOTEL 1100 HULL F/D, NEED AMBULANCES 4/L

1523 CG 41354 M/S P.A. 81

1528 HULL F/D AT STA P.A.

1530 HINGHAM F/D AT STA P.A. (AMBULANCE)

1540 TRANSPORTED VICTIMS TO SOUTH SHORE HOSPITAL

1541 CG 220529 HAS 3RD VICTIM O/S, TRANSPORTING
TO BOSTON P/O PIER, BOSTON PARAMEDIC
O/S WITH BOSTON POLICE BOAT 81

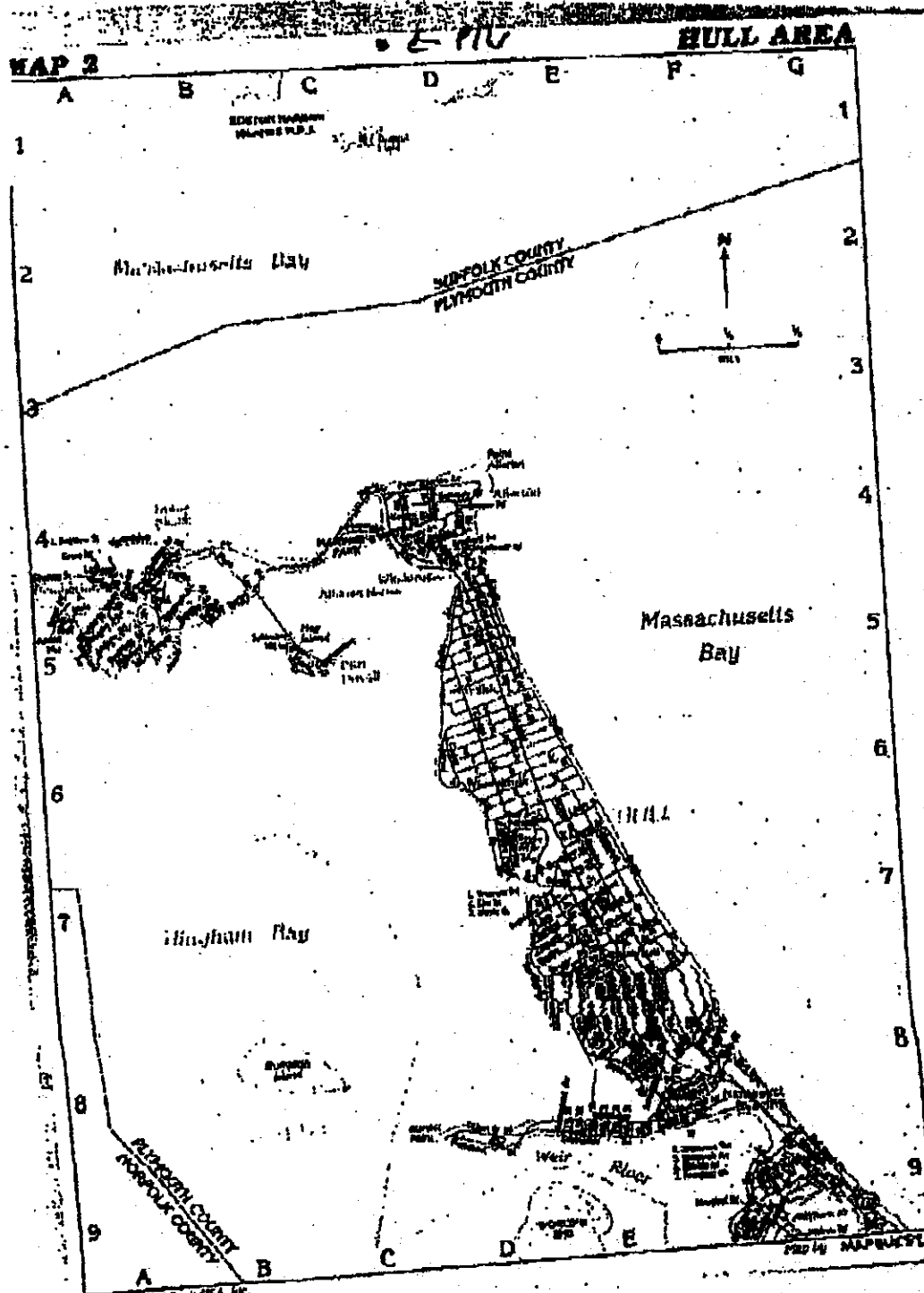
1552 MARINE 10 O/S CAPSIZED VIL, RECS SEATON O/S 81

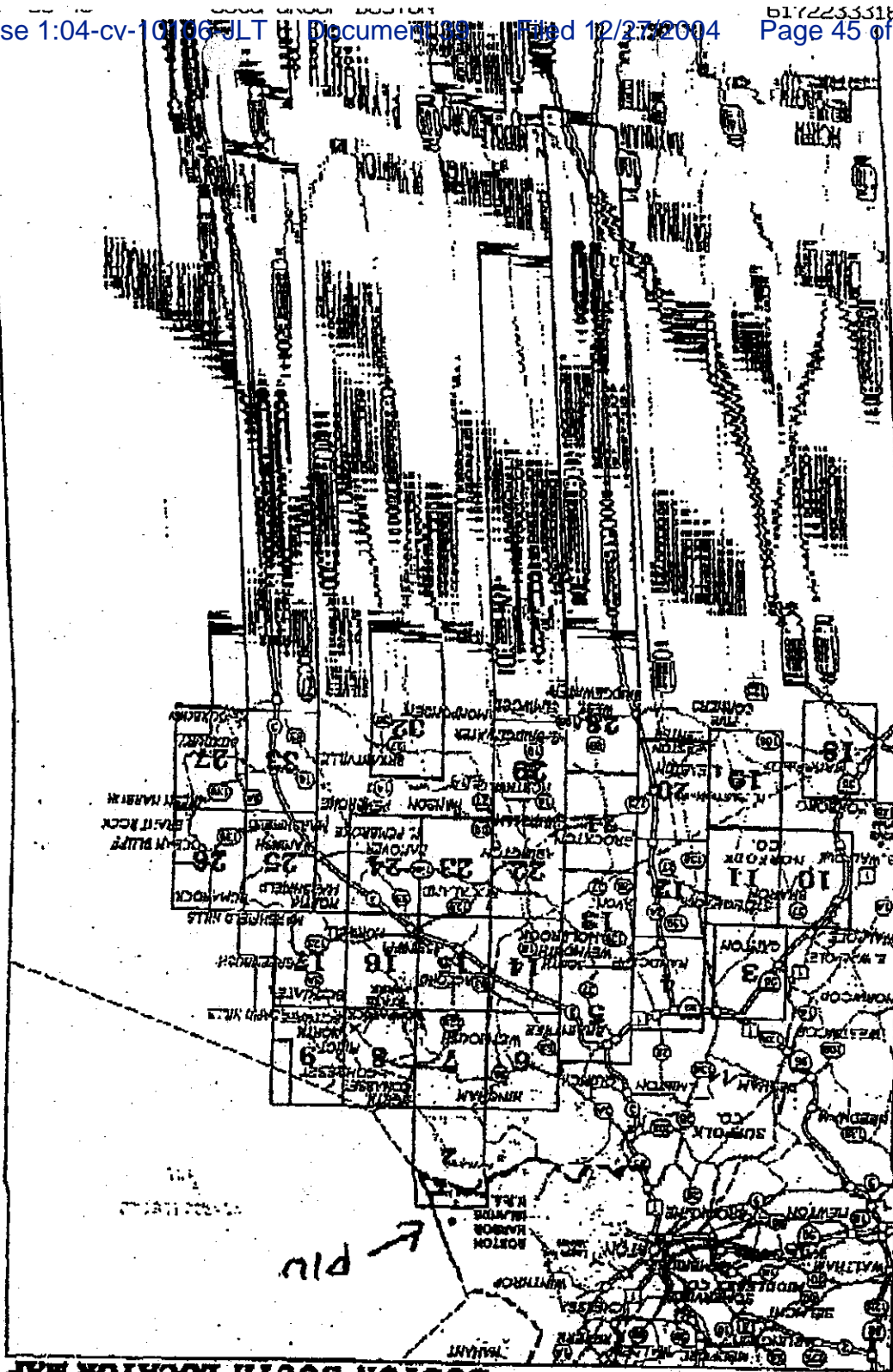
1559 CG 220529 MONROE BOSTON P/O DOCK DROPPED
OFF 01 VICTIM AT DOCK TO Paramedics 81

1607 CG 41354 O/S CAPSIZED VSL 81

1628 CG 41354 O/S CAPSIZED VSL 81

1629 CG 41354 RAN NO DEBRIT EAST SIDE OF
WATERWAY 81





MAP 1 BOSTON SOUTH LOCATOR MAP

UNIT		GUARDING		DATE
COMCOGARDGRU BOSTON MA / NMF7 /		2182kHz	156.8/157.075MHz	25 MAY 03
ENTRIES		FREQUENCY	TIME	
TCI S.S. CARTER ON WATCH. TWR NTD CONDUCTED MHL'S BRIEF & WTW INV				
ALL ITEMS ACCOUNTED FOR				
OBTAINED WWV TIME TICK: ALL CLOCKS CORRECT				
SENT RMIB: CSTL/OPTEH WQ; COGDI BNM 0206204-03; FELONY MSG...				
RCVD: B3 ASSUMES OWN GRD ATT				
ASSUMED GRD: CG 41337/W, 04 POB, ENR BLACK ROCK CHNL				
ANNUED GRD: CG 220521, 02 POB, ENR ISC BOSTON				
RCVD: OPS NML FM CG 41337/W POS RYAN'S LEDGE				
RCVD: OPS NML FM CG 220521 POS BOSTON WORLD TRADE CENTER				
RCVD: OPS NML FM CG 220521 POS U/W FM BOSTON WORLD TRADE CENTER				
MAYDAY MAYDAY ENGINE IS SMOKING I'M AT THE ENTRANCE OF				
GREEN HARBOR/VSL IN DISTRESS TI NMF7 I NEED A LANT LONG AND POB				
OPNOTE: STA P/A ASSUMED CASE OF VSL IN DISTRESS WITH ENG SMOKING				
RCVD: OPS NML FM CG 220521 POS USS CONSTITUTION				
SECURED GRD: CG 41337/W, MRD ISC				
SECURED GRD: CG 220521, MRD ISC				
MAYDAY MAYDAY, S.O.S CAPSIZE VSL ON WITH P.L.W. BETWEEN BOSTON LT				
AND GRAVES LT/STA P/A RESPONDS TO DISTRESS CALL				
PAN PAN (3X) HELO ALSTA (1X), TI CGBOSMAGRU (2X), CG UMIB, TIME 251851 GMT				
MAY 03, THE CG HAS RCVD A RPT OF A CAPSIZE VSL WITH P.L.W. BETWEEN BOSTON				
LT AND GRAVES LT. ALL MARINERS ARE RQTD TO KEEP A SHARP LOOKOUT,				
ASSIST IF POSS, AND NOTIFY THE NEAREST CG UNIT OF ANY SIGHTINGS BT				
SENT UMIB: 251858Z MAY 03 (MAYDAY BOSTON LT)				
SENT UMIB: 251858Z MAY 03 (MAYDAY BOSTON LT)				
ASSUMED GRD: CG RES 6042, 04 POB, POSN AIRSTA C/C, ENR BOSTON LT FOR SAR				
RCVD: CG RES 6042 OPS NML IN POS 42-10N 070-42W, WILL RTB ATT				
PAN PAN (1X), HELO ALSTA (3X) TI CGBOSMAGRU, TIME 251937 GMT MAY 03				
THE CAPSIZE VSL WITH P.L.W. BETWEEN BOSTON LT AND GRAVES LT. ALL				
P.L.W. HAS BEEN RECOVERED. CANCEL PAN PAN				
SECURED GRD: CG RES 6042 SHIFTED GRD TO AIRSTA C/C				
ASSUMED GRD: CG 255012/W, 03 POB, ENR ESCORT OF NOWEIGN MAJESTY				
PAN PAN (3X) HELO ALSTA (1X), TI CGBOSMAGRU (2X), CG UMIB, TIME 251958 GMT				
MAY 03, THE CG HAS RCVD A RPT OF A CAPSIZE VSL WITH 4 P.L.W. OFF OF				
SALISBURY BEACH. ALL MARINERS ARE RQTD TO KEEP A SHARP LOOKOUT,				
ASSIST IF POSS, AND NOTIFY THE NEAREST CG UNIT OF ANY SIGHTINGS BT				
PAN PAN (1X), HELO ALSTA (3X) TI CGBOSMAGRU, TIME 251937 GMT MAY 03				
THE PREV RPT OF A CAPSIZE VSL WITH 4 P.L.W. OFF OF SALISBURY BEACH				
WAS A FALSE ALARM. CANCEL PAN PAN				
ASSUMED GRD: MEP, 02 POB, ENR HAR PAT IN BOSTON HBR				
ASSUMED GRD: CG RES 6042, 04 POB, POSN 41-50N 070-31W, ENR SALISBURY BCH				
FOR SAR				
RCVD: CG RES 6042, RTB ENR AIRSTA C/C				
SECURED GRD: CG RES 6042, SHIFTED GRD TO AIRSTA C/C				
PAN PAN (3X) HELO ALSTA (1X), TI CGBOSMAGRU (2X), CG UMIB, TIME 252031 GMT				
MAY 03, THE CG HAS RCVD A RPT OF A PERSON IN DISTRESS ON CH 16 VHF-FM.				
NO NAME, POSN, OR NATURE OF DISTRESS WAS GIVEN. ALL MARINERS ARE				
REQUESTED TO KEEP A SHARP LOOKOUT FOR VESSELS IN DISTRESS, ASSIST IF				
POSS, AND RPT ALL SIGHTINGS TO THE CG BT				
SENT UMIB: 252031Z MAY 03 (UNCOR MAYDAY)				
SENT UMIB: 252031Z MAY 03 (UNCOR MAYDAY)				
SENT UMIB: 252031Z MAY 03 (UNCOR MAYDAY)				

Previous editions of this form may be used

TC1 S.S. CARTER ON WATCH AS BEFORE
SENT UMB: 252031Z MAY 03 (UNCOR MAYDAY)
WATCH RELIEVED BY TC2 J.P. MANZI

TOLE 2125Z
156.8 2145Z

EOP: NIL

TFC: SEE BOARD FOR PENDING BCSTS, UMB 252031Z MAY 03 EVY 15MINS

ZKP: NNAS/PENDANT/BOLLARD/BLOCK ISL MRD ISC

VOX GRD: CG 255012/W, MFP PATROL BOAT CH 81

CLAS TFC: MSO/NESU/COI/GRU/BLOCK ISL

WX: CSTL SCA/OFFS CIR

SARAFED: NIL

OPORDER: 049-01; IXORDER: NIL; OPPLAN: 01-02

ZUB 2153Z

TC1 S.S. CARTER

Previous editions of this form may be used

Case 1:04-cv-10106-JLT Document 39 Filed 12/27/2006 Page 10
****URGENT MARINI INFORMATION BROADCAST SHEET**

*PAN-PAN (3) HELLO ALSTAS, TI USCG BOSTON, MA GROUP (2), CG URGENT MARINE INFORMATION
BROADCAST, (TIME GMT) - (LOCATION) - (INFO).*

1. TIME: 251858 GMT MAY 03

2. LOCATION:

3. INFO: THE CG HAS RCVD A REPORT OF:

3. INFO: THE CG HAS RCVD A REPORT OF: Capsized VSL WITH PFD.
BETWEEN BOSTON LT AND GROVES LT

"ALL MARINERS ARE REQUESTED TO KEEP A SHARP LOOKOUT, ASSIST IF POSSIBLE, AND NOTIFY THE NEAREST CG UNIT OF ANY SIGHTINGS"

-break~

"THIS IS USCG BOSTON MA GROUP, OUT"

BROADCAST UPON RECEIPT EVERY 30 MINUTES UNLESS OTHERWISE DIRECTED

RELEASED BY:

[illegible]

"PAN-PAN (1) HELLO ALL STAS (3) TI USCG BOSTON MA GROUP, TIME 251937 GMT MAY 15

(BRIEF DESCRIPTION): CADILLAC V8L WITH P.I.W. BETWEEN BOSTON
LT AND GRAVES LT. ALL P.I.W. HAS BEEN RECOVERED

"CANCEL PAN-PAN"

-BREAK-

"THIS USCG BOSTON MA GROUP, OUT."

CANX BCST: XXX- 251937Z MAY 83 00/CHL 18

- Good SAM Vessel
- In Bowing F. LEAVES Heading TO Sam VSL, PPHs
WEATHER ARMS, HAZARD A LEAK WITH PFD.
 - 05 POB 20 BAYVIEW TROPHY
ERIC MACDONALD
LABOR UNION BOSS
 - KURT ORMBERG
CAPITAL PD WASHINGTON D.C.
 - ARRON JOHNSON
INVESTMENT BANKER
 - MICHELL JOHNSON
YMCA DIR. OF OPERATIONS
 - JESSICA BATUS
NON PROFIT ORGANIZATION WASHINGTON D.C.

3 men

Amir LASHGARI 30's
ZILBERMAN 40's

18-19/1

D/B

MS 9367

1618

116

117

118

22 FT
SEA HUNT
12 APR

BOSTON MEDICAL CENTER
617-638-8000

FASHION BY
CAPSIZED BELLSTERS
NO LIFE JACKETS

FIVE

SOUTH SHORE

GREGORY
ZILBERMAN

41 yoa

YES

CHIZHIK GREGORY

Boston PD

HOSPITAL

Boston

CITY HOSPITAL

Boston

MEDICAL

CENTER

MR. EILBERMAN

(BOAT OWNER)

AMIRE LASHIGARI

TAKEN TO South Shore
Hospital

Grigory Chizhik

MASS GENERAL Hospital

PRONOUNCED DEAD
HOSPITAL AT
AT 1710

MURPHY, HESSE, TOOMEY & LEHANE, LLP
Attorneys At Law

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TEL: (617) 479-5000 FAX: (617) 338-1324

ONE MONARCH PLACE, SUITE 1310R
SPRINGFIELD, MA 01144
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Rachel A. Israel
Kristin Bierly Magendantz
Adam D. Janoff
Thomas W. Colomb
Monica Swanson Tester
David A. Appugliese
Jennifer N. Geosits
Bryan R. LeBlanc
Kimberly A. Mucha
Jason M. Gesing
Christina Gentile

Scott Harshbarger

Please Respond to Quincy

May 10, 2004

Timothy M. Barouch, Esq.
The Kaplan/Bond Group
Boston Fish Pier, West Building, Suite 304
Boston, MA 02210

Re: Zhanna Chikhik v. Sea Hunt Boats, Inc., et al.
Civil Action No. 04-10106JLT

Dear Mr. Barouch:

I received your letter of May 5, 2004, concerning supplementation of Ms. Chizhik's automatic disclosure pursuant to Rule 26 Fed.R.Civ.P. Although I certainly believe that tax returns of the decedent and available autopsy records and material must be produced by you in supplementation of responses previously made, we do not believe that these documents are sufficient to fully comply with Ms. Chizhik's disclosure obligations. The following constitutes some of the documents and materials which we believe must be produced.

As Ms. Chizhik alleges damages for wrongful death of her decedent, we believe that her decedent's pre-accident medical condition is placed squarely at issue. Your letter reflects willingness to execute medical records release authorizations in order that the defendants can obtain the decedent's records directly. I have enclosed several such records release authorizations for Ms. Chizhik's signature. However, in order to be useful, we request that Ms. Chizhik disclose the names and addresses of all physicians, hospitals, providers of health care treatment, examination or services for the ten years preceding the decedent's demise. Through our disclosure and production of executed releases will enable us to fully and fairly investigate the plaintiff's decedents pre-accident health condition.

MURPHY, HESSE, TOOMEY & LEHANE, LLP
Attorneys At Law

Timothy M. Barouch, Esq.
May 10, 2004
Page 2

To the extent that Ms. Chizhik will claim loss of her decedent's income, we ask that she voluntarily disclose the names, addresses and identity of any employer of Mr. Chizhik for the five years preceding his death. We also ask that she voluntarily disclose each and every source of additional income which the plaintiff's decedent found during the five years preceding his demise. Provision of such information prior to Ms. Chizhik's deposition will enable us to ask the questions which must be asked to fully investigate any claim which she may make for loss of income of her decedent.

As of the date of the pre-trial conference, you were unable to identify specifically Mr. Chizhik's adult children. Kindly provide the full names and addresses of Mr. Chizhik's children. Additionally, if Ms. Chizhik is aware of others who potentially stand to gain from Mr. Chizhik's income and services had he survived the subject incident, kindly provide the names of each such person and state the nature of each such person's relationship to the plaintiff's decedent.

In several telephone conversations we have had since the outset of our involvement in this litigation, we have asked that you specifically identify the defect(s), if any, which you allege were present in the subject vessel and which you allege was a substantial factor in causing the subject accident. To my recollection, Judge Turo inquired whether the plaintiffs had disclosed to the defendants their theory of the case or theory of liability. Kindly state specifically each defect which your client alleges was present in the subject vessel at the time of the accident which you allege was a substantial factor in causing the subject accident. This information is obviously necessary to fully explore your client's claim and to compare the defendants' response to the same.

If your client seeks recovery of funeral expenses and/or the cost and expense of the disposition of her decedent's remains, we ask that you provide to us all records within her possession concerning the funeral and/or disposition of Mr. Chizhik's remains.

Additionally, if you intend to seek recovery of any item of special damages other than Mr. Chizhik's medical expenses lost, earning capacity and funeral expenses, we ask that you provide us with all documentation which the plaintiff may have in relation to any such item of damages.

As the Court has denied the parties the opportunity of written discovery it is imperative that the plaintiff comply fully and fairly with her obligations under Rule 26. I do not agree that your provision of tax returns for the decedent and autopsy records will fully satisfy Ms. Chizhik's obligations of automatic disclosure. I look forward to your response.

MURPHY, HESSE, TOOMEY & LEHANE, LLP
Attorneys At Law

Timothy M. Barouch, Esq.
May 10, 2004
Page 3

Very truly yours,

William P. Breen, Jr.

WPB/jm
Enclosures

cc: David W. McGough, Esq.
David C. Stadolnik, Esq.
Philip M. Hirshberg, Esq.

MURPHY, HESSE, TOOMEY & LEHANE, LLP
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Thomas W. Colomb
Monica Swanson Tesler
David A. Appugliese
Jennifer N. Geosits
Bryan R. LeBlanc
Kimberly A. Mucha
Jason M. Gesing
Christina Gentile

Of Counsel
Paul F. Dempsey
William P. Breen, Jr.

Scott Harshbarger

Please Respond to Quincy

July 12, 2004

Timothy M. Barouch, Esq.
The Kaplan/Bond Group
Boston Fish Pier, West Building, Suite 304
Boston, MA 02210

Re: Zhanna Chikhik v. Sea Hunt Boats, Inc., et al.
Civil Action No. 04-10106JLT

Dear Attorney Barouch:

At the initial scheduling conference of this matter, I expressed concern to the Court that the information made available by the plaintiff to Sea Hunt Boats at that time did not disclose a specific defect or defects in the Navigator 22 vessel upon which the plaintiff relies in support of her product liability allegation. To my recollection, the Court responded that the plaintiff's mandatory disclosure would/should be sufficiently specific to identify the substance of her product liability allegation. I have received and examined the plaintiff's production materials and disclosure of information provided in her supplemental disclosure in June, but these documents do not make clear what defect(s) in the Navigator 22 are alleged to have been a substantial factor in causing the Mr. Chizhik's alleged accident and injuries. Accordingly, Sea Hunt Boats, Inc. now calls upon the plaintiff to identify each and every product defect which the plaintiff alleges was present in the Navigator 22 at the time of the subject accident which the plaintiff alleges was a substantial factor in causing her decedent's accident and injuries.

The plaintiff's disclosure includes a cover sheet bearing the title "Standards and Technical Information Reports for Small Craft, July 2001" and the insignia of the ABYC, with one attached page containing numbered paragraphs 10 and 11 concerning guard rails. No other

MURPHY, HESSE, TOOMEY & LEHANE, LLP.

Timothy M. Barouch

July 12, 2004

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purported standards are attached. Does the plaintiff contend that (1) these paragraphs are standards applicable to the Navigator 22; (2) that the Navigator 22 did not meet these standards; and/or (3) if the plaintiff claims that the Navigator 22 did not meet the qualifications set forth in paragraphs 10 and 11, that the Navigator 22's lack of such features was a substantial factor in causing the subject accident and injuries? Does the plaintiff allege that the Navigator 22 was defective in any respect other than the height of its guard rails? Does the plaintiff allege that any other standards are applicable to the Navigator 22 which were not satisfied by the Navigator 22's design or manufacture? Please answer these questions and identify each and every way in which you contend that the Navigator 22 was defective, and which defect was a substantial factor in causing the plaintiff's decedent's accident and injuries. If the plaintiff fails or refuses to identify the alleged defects in the subject vessel, Sea Hunt Boats intends to make this refusal the basis of a motion to preclude the plaintiff from asserting theories of product defect not explicitly identified to Sea Hunt Boats at trial.

Your production also includes a copy of page 11 and the back cover to a brochure published by Sea Hunt Boats. Does that plaintiff assert that any other printed or otherwise communicated statement or representation made by Sea Hunt Boats serves as a basis for liability to the plaintiff? If so, please identify any such document or statement to us at your very earliest convenience. If the plaintiff fails or refuses to identify any such alleged statements by Sea Hunt Boats concerning the subject vessel which the plaintiff claims support's her claim of liability against Sea Hunt Boats, Sea Hunt Boats will make this refusal the basis of a motion to preclude the plaintiff from asserting theories of liability based on statements attributed to Sea Hunt Boats at trial.

The plaintiff's failure to identify specifically the alleged defects or statements upon which her claim of product liability is based may be the result of the parties' inability to serve interrogatories requiring specification of the plaintiff's theory of product defect. Nevertheless, Sea Hunt Boats is entitled to know the plaintiff's theory of product defect and the Court plainly contemplated that the plaintiff's mandatory disclosure would provide this information to the defendants. The Court's discussion surrounding its decision that mandatory disclosure would serve in lieu of formal written discovery manifested an intention that there be a consequence to a party's failure to provide full and fair disclosure. It is imperative that we know the plaintiff's theory of product defect before substantive discovery begins with depositions to be scheduled in August.

Please contact me in writing with a complete list of any defect(s) which the plaintiff alleges were present in the subject Navigator 22, and which the plaintiff contends was a substantial factor in causing her decedent's accident and injuries. If you contend that any

MURPHY, HESSE, TOOMEY & LEHANE, LLP.

Timothy M . Barouch

July 12, 2004

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statement made by Sea Hunt Boats was a substantial factor in causing the plaintiff's decedent's accident and injuries, please identify each such statement specifically by substance, date and mode. Please provide the information requested in this letter at your very earliest convenience and at the latest, on or before July 30, 2004.

I look forward to your reply.

Very truly yours,

William P. Breen, Jr.

WPB/jm

cc: David W. McGough, Esq.
David C. Stadolnik, Esq.
Philip M. Hirshberg, Esq.

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF MASSACHUSETTS

ZHANNA CHIZHIK,
Administratrix of the Estate
of Grigory Chizhik,
Plaintiff

*

*

*

*

*

v.

*

*

SEA HUNT, INC., TROPICLAND
MARINE AND TACKLE, INC., and
GREGORY ZILBERMAN,
Defendants

*

*

*

*

C.A. NO.: 04-10106-JLT

PLAINTIFF ZHANNA CHIZHIK'S SWORN STATEMENT

Pursuant to Local Rule 26.1(B)(1) the plaintiff, Zhanna Chizhik ("Ms. Chizhik")
makes the following sworn statement:

A. Itemization of economic loss and a computation of damages

This is an action for wrongful death of Ms. Chizhik's husband, Grigory Chizhik.
As such, the plaintiff seeks damages in wrongful death including, but not limited to the
following: lost wages, conscious pain and suffering, loss of consortium, and other
categories of damages related to the wrongful death of her husband, Grigory Chizhik.
These damages are not capable of precise itemization at this time.

B. Persons known who witnessed and/or participated in the occurrence giving rise to this claim or otherwise known or believed to have substantial discoverable information about the claim or defenses:

1. Amir Lashgari (believed to have been aboard the boat);
2. Gregory Zilberman (believed to have been aboard the boat);
3. U.S. Coast Guard personnel (believed to have been involved in a search and rescue mission);
4. Eric McDonald (believed to have come upon the boat after it capsized);
5. Representatives from Defendant Sea Hunt (concerning alleged defects and breaches of warranties of the boat); and
6. Representatives from defendant Tropicland Marine and Tackle (concerning alleged defects and breaches of alleged warranties of the boat).

C. Opposing parties, officers, directors and employees from who statements have been obtained by the claimant:

None.

D. All government agencies now known to claimant or the claimant's attorney that have investigated the occurrence giving rise to this claim:

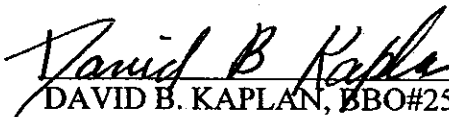
The United States Coast Guard. Plaintiff has produced copies of documents produced by the Coast Guard pursuant to plaintiff's FOIA request in this matter.

Plaintiff Zhanna Chizik states under the pains and penalties of perjury that the above information is correct as of the date of this document, based upon information and belief.


ZHANNA CHIZHIK

ZHANNA CHIZHIK,

By her attorneys,


DAVID B. KAPLAN, BBO#258540
TIMOTHY M. BAROUCH, BBO#644044
THE KAPLAN/BOND GROUP
BOSTON FISH PIER
WEST BUILDING, SUITE 304
BOSTON, MA 02210
(617) 261-0080

April 30, 2004

CERTIFICATE OF SERVICE

I, Timothy M. Barouch, hereby certify that on May 3, 2004, I served a copy of the following document:

1. Plaintiff Zhanna Chizhik's Sworn Statement

By mailing same first class postage prepaid to:

William P. Breen, Esquire
Murphy, Hesse, Toomey & Lehane, LLP
Crown Colony Plaza
300 Crown Colony Drive, Suite 410
PO Box 9126
Quincy, MA 02269

Philip M. Hirshberg, Esquire
Morrison, Mahoney & Miller, LLP
250 Summer Street
Boston, MA 02210

David C. Stadolnik, Esquire
Smith & Brink P.C.
122 Quincy Shore Drive
Quincy, MA 02171

Marci J. Shyavitz, Esquire
Cornell & Gollub
75 Federal Street
Boston, MA 02110


TIMOTHY M. BAROUCH, ESQUIRE

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF MASSACHUSETTS

ZHANNA CHIZHIK,
Administratrix of the Estate
of Grigory Chizhik,
Plaintiff

C.A. NO.: 04-10106-JLT

v.

SEA HUNT, INC., TROPICLAND
MARINE AND TACKLE, INC., and
GREGORY ZILBERMAN,
Defendants

PLAINTIFF ZHANNA CHIZHIK'S SWORN STATEMENT

Pursuant to Local Rule 26.1(B)(1) the plaintiff, Zhanna Chizhik ("Ms. Chizhik") makes the following sworn statement:

A. Itemization of economic loss and a computation of damages

This is an action for wrongful death of Ms. Chizhik's husband, Grigory Chizhik. As such, the plaintiff seeks damages in wrongful death including, but not limited to the following: lost wages, conscious pain and suffering, loss of consortium, and other categories of damages related to the wrongful death of her husband, Grigory Chizhik. I have been informed by my counsel that I currently am seeking the following damages:

Plaintiffs seek recovery for wrongful death damages, including but not limited to lost wages, loss of consortium, other pecuniary loss, conscious pain and suffering, and other damages. These damages include:

Lost wages— \$24,600 x 12.8493 (14.8 years work life expectancy reduced to present value) = \$316,092.78

Funeral expenses-- \$8,422.40

Loss of Consortium— \$24,600 x 31.0 years = \$762,600

Conscious pain and suffering-- \$500,000

Total computed damages-- \$1,587,115.10

B. Persons known who witnessed and/or participated in the occurrence giving rise to this claim or otherwise known or believed to have substantial discoverable information about the claim or defenses:

1. Amir Lashgari (believed to have been aboard the boat);
2. Gregory Zilberman (believed to have been aboard the boat);
3. U.S. Coast Guard personnel (believed to have been involved in a search and rescue mission);
4. Eric McDonald (believed to have come upon the boat after it capsized);
5. Representatives from Defendant Sea Hunt (concerning alleged defects and breaches of warranties of the boat); and
6. Representatives from defendant Tropicland Marine and Tackle (concerning alleged defects and breaches of alleged warranties of the boat).
7. All individuals listed on the various disclosures of defendants in this matter.
8. Relevant medical providers already identified.

C. Opposing parties, officers, directors and employees from who statements have been obtained by the claimant:

None.

D. All government agencies now known to claimant or the claimant's attorney that have investigated the occurrence giving rise to this claim:

The United States Coast Guard. Plaintiff has produced copies of documents produced by the Coast Guard pursuant to plaintiff's FOIA request in this matter.

Any entity listed on the disclosures of the each defendant in this matter.

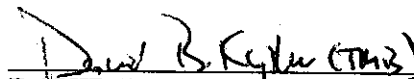
Plaintiff Zhanna Chizik states under the pains and penalties of perjury that the above information is correct as of the date of this document, based upon information and belief.



ZHANNA CHIZHIK

ZHANNA CHIZHIK,

By her attorneys,



DAVID B. KAPLAN, BBO#258540

TIMOTHY M. BAROUCH, BBO#644044
THE KAPLAN/BOND GROUP
BOSTON FISH PIER
WEST BUILDING, SUITE 304
BOSTON, MA 02210
(617) 261-0080

June 4, 2004

CERTIFICATE OF SERVICE

I, Timothy M. Barouch, hereby certify that on June 4, 2004, I served a copy of the following document:

1. Plaintiff Zhanna Chizhik's Sworn Statement

By mailing same first class postage prepaid to:

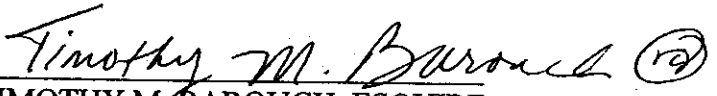
William P. Breen, Esquire
Murphy, Hesse, Toomey & Lehane, LLP
Crown Colony Plaza
300 Crown Colony Drive, Suite 410
PO Box 9126
Quincy, MA 02269

Philip M. Hirshberg, Esquire
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Boston, MA 02210

Lauren Motola-Davis, Esquire
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122 Quincy Shore Drive
Quincy, MA 02171

David McGough, Esq.
Cornell & Gollub
75 Federal Street
Boston, MA 02110


TIMOTHY M. BAROUCH, ESQUIRE